

# CHANGE REQUEST COVER SHEET

**Change Request Number:** 13-08

**Date Received:** 10/17/2012

**Title:** Indian Incentive Program

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**Name:** Eugene Scott

**Phone:** 202-493-4639

**Policy OR Guidance:** Guidance

**Section/Text Location Affected:** T3.6.5 Indian Incentive Program

**Summary of Change:** The change (i) corrects an incorrect reference to the clause number for the Indian Incentive clause and (ii) corrects the title of clause 3.6.1-4 Small, Small Disadvantaged, Women-Owned and Service-Disabled Veteran Owned Small Business Subcontracting Plan. No substantive changes are made.

**Reason for Change:** To correct a minor errors in a clause reference number and a clause title. No substantive changes are made.

**Development, Review, and/or Concurrence:** AGC-500, AAQ Division contracts managers, Aeronautical center contracting, AAP-110.

**Target Audience:** All AMS users

**Potential Links within FAST for the Change:** none

**Briefing Planned:** No

**ASAG Responsibilities:** Approve

**Potential Links within FAST for the Change:** none

**Links for New/Modified Forms (or) Documents (LINK 1)**

**Links for New/Modified Forms (or) Documents (LINK 2)**

**Links for New/Modified Forms (or) Documents (LINK 3)**

## SECTIONS EDITED:

### Procurement Guidance:

*T3.6.5 Indian Incentive Program*

*Indian Incentive Program*

### **Section 1 : Requirements** [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

### Procurement Guidance:

*T3.6.5 Indian Incentive Program*

*Indian Incentive Program*

### **Section 2 : Definitions** [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

## SECTIONS EDITED:

### **Section 1 : Requirements**

#### **Old Content:** Procurement Guidance:

*T3.6.5 Indian Incentive Program*

*Indian Incentive Program*

#### **Section 1 : Requirements**

a. *General.* The FAA is subject to the requirements of paragraph 1544 of 25 U.S.C. that establishes an incentive payment for contractors of Federal agencies that subcontract with or use suppliers who are Indian organizations or Indian-owned economic enterprises in performing the contract. This incentive payment may be equal to 5% of the amount paid, or to be paid, to a qualifying subcontractor or supplier that is an Indian organization or Indian-owned economic enterprise.

b. *Declarations.*

(1) *Self-declarations.* An Indian organization or Indian-owned economic enterprise may self-declare as to its eligibility under the Indian incentive program using FAA's Business Declaration Form (see AMS Procurement Guidance T3.6.1, Small Business Utilization).

(2) *Reliance on Self-declarations.* COs and prime contractors acting in good faith, may rely on the self-declaration of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the CO has independent reason to question that status.

(3) *Challenges to Self-declarations.* To be considered timely, challenges must:

- (a) Be in writing;
- (b) Identify the basis for the challenge;
- (c) Provide detailed evidence supporting the claim; and
- (d) Be filed with and received by the CO before award of the subcontract in question. Challenges received after award of the subcontract must be referred to Bureau of Indian Affairs (BIA), but the BIA determination must have prospective application only.

c. *Responsibilities.*

(1) *CO Actions*. The CO will:

(a) Determine if a subcontracting plan will be required under AMS clause 3.6.1-4, "Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan" and if subcontracting opportunities exist pursuant to AMS clause 3.6.2-26, "Utilization of Indian Organizations and Indian-Owned Economic Enterprises." If the CO determines that a subcontracting plan is required and there are opportunities for subcontracting to Indian organizations and Indian-owned economic enterprises, as defined by the clause, the CO may seek funding according to FAA procedures to provide an incentive payment under clause 3.6.2-26.

(b) Insert AMS clause 3.6.2-26, "Utilization of Indian Organizations and Indian-Owned Economic Enterprises," into the screening information request and contract when funds are available for this type of incentive payment.

(c) Refer self-declaration challenges to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Attn.: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW, MS-334A-SIB, Washington, D.C., 20245. (The BIA will determine the eligibility and notify the CO. The BIA will acknowledge receipt of the request from the CO within five working days. Within 45 additional working days, BIA will advise the CO, in writing, of its determination.)

(d) Notify the prime contractor upon receipt of a challenge.

(e) Authorize an incentive payment of 5% of the amount paid to the subcontractor subject to the terms and conditions of the contract and the availability of funds.

(2) *Contractor Actions*. If a challenge is received before the subcontract is awarded, the contractor will withhold award of the subcontract pending the determination by BIA. However, if the prime contractor determines, and the CO agrees, that award must be made in order to permit timely performance of the prime contract, the contractor may proceed with the award of the subcontract.

(3) *Bureau of Indian Affairs (BIA)*.

(a) The BIA will determine the eligibility of the firm and notify the CO within 50 working days after receipt of the request.

(b) If the BIA determination is not received within the prescribed time period, the CO and the contractor may rely on the self-declaration of the subcontractor.

**New Content: Procurement Guidance:**

*T3.6.5 Indian Incentive Program*

*Indian Incentive Program*

**Section 1 : Requirements**

a. *General.* The FAA is subject to the requirements of 25 U.S.C. 1544 that establishes an incentive payment for Federal contractors subcontracting with or using suppliers who are Indian organizations or Indian-owned economic enterprises in performing the contract. This incentive payment may be equal to five percent of the amount paid or to be paid to a qualifying subcontractor or supplier that is an Indian organization or Indian-owned economic enterprise.

b. *Declarations.*

(1) *Self-declarations.* An Indian organization or Indian-owned economic enterprise may self-declare as to its eligibility under the Indian incentive program using FAA's Business Declaration Form (see AMS Procurement Guidance T3.6.1, Small Business Utilization).

(2) *Reliance on Self-declarations.* COs and prime contractors acting in good faith, may rely on the self-declaration of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges the status or the CO has independent reason to question the status.

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(a) Be in writing;

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(d) Be filed with and received by the CO before award of the subcontract in question. Challenges received after award of the subcontract must be referred to Bureau of Indian Affairs (BIA), but the BIA determination must have prospective application only.

c. *Responsibilities.*

(1) *CO Actions.* The CO will:

(a) Determine if a subcontracting plan will be required under AMS clause 3.6.1-4, "Small, Small Disadvantaged, Women-Owned and Service Disabled Veteran Owned Small Business Subcontracting Plan" and if subcontracting opportunities exist pursuant to AMS clause 3.6.5-1, "Utilization of Indian Organizations and Indian-Owned Economic Enterprises." If the CO determines that a subcontracting plan is required and there are opportunities for subcontracting to Indian organizations and Indian-owned economic enterprises, as defined by the clause, the CO may seek funding according to FAA procedures to provide an incentive payment under clause 3.6.5-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.

(b) Insert AMS clause 3.6.5-1, "Utilization of Indian Organizations and Indian-Owned Economic Enterprises," into the screening information request and contract when funds are available for this type of incentive payment.

(c) Refer self-declaration challenges to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Attn.: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW, MS-334A-SIB, Washington, D.C., 20245. The BIA will determine the eligibility and notify the CO. The BIA will acknowledge receipt of the request from the CO within five working days. Within 45 additional working days, BIA will advise the CO, in writing, of its determination.

(d) Notify the prime contractor upon receipt of a challenge.

(e) Authorize an incentive payment of five percent of the amount paid to the subcontractor subject to the terms and conditions of the contract and the availability of funds.

(2) *Contractor Actions.* If a challenge is received before the subcontract is awarded, the contractor will withhold award of the subcontract pending the determination by BIA. However, if the prime contractor determines, and the CO agrees, that award must be made in order to permit timely performance of the prime contract, the contractor may proceed with the award of the subcontract.

(3) *Bureau of Indian Affairs (BIA).*

(a) The BIA will determine the eligibility of the firm and notify the CO within 50 working days after receipt of the request.

(b) If the BIA determination is not received within the prescribed time period, the CO and the contractor may rely on the self-declaration of the subcontractor.

**Red Line Content: Procurement Guidance:**

*T3.6.5 Indian Incentive Program*

*Indian Incentive Program*

**Section 1 : Requirements**

a. *General.* The FAA is subject to the requirements of ~~paragraph 1544 of~~ 25 U.S.C. ~~1544~~ that establishes an incentive payment for ~~contractors of Federal agencies that subcontract~~ ***contractors subcontracting*** with or ~~use~~ ***using*** suppliers who are Indian organizations or Indian-owned economic enterprises in performing the contract. This incentive payment may be equal to ~~5%~~ ***five percent*** of the amount paid; or to be paid; to a qualifying subcontractor or supplier that is an Indian organization or Indian-owned economic enterprise.

b. *Declarations.*

- (1) *Self-declarations*. An Indian organization or Indian-owned economic enterprise may self-declare as to its eligibility under the Indian incentive program using FAA's Business Declaration Form (see AMS Procurement Guidance T3.6.1, Small Business Utilization).
- (2) *Reliance on Self-declarations*. COs and prime contractors acting in good faith, may rely on the self-declaration of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges ~~its~~*the* status or the CO has independent reason to question ~~that~~*the* status.
- (3) *Challenges to Self-declarations*. To be considered timely, challenges must:

- (a) Be in writing;
- (b) Identify the basis for the challenge;
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- (a) Determine if a subcontracting plan will be required under AMS clause 3.6.1-4, "Small, Small Disadvantaged ~~and~~, Women-Owned *and Service Disabled Veteran Owned* Small Business Subcontracting Plan" and if subcontracting opportunities exist pursuant to AMS clause 3.6. ~~25-26~~*1*, "Utilization of Indian Organizations and Indian-Owned Economic Enterprises." If the CO determines that a subcontracting plan is required and there are opportunities for subcontracting to Indian organizations and Indian-owned economic enterprises, as defined by the clause, the CO may seek funding according to FAA procedures to provide an incentive payment under clause 3.6. ~~25-1~~*Utilization of Indian Organizations and Indian-26* *Owned Economic Enterprises*.
- (b) Insert AMS clause 3.6. ~~25-26~~*1*, "Utilization of Indian Organizations and Indian-Owned Economic Enterprises," into the screening information request and contract when funds are available for this type of incentive payment.
- (c) Refer self-declaration challenges to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Attn.: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW, MS-334A-SIB, Washington, D.C., 20245. ~~(The BIA will determine the eligibility and notify the CO. The BIA will acknowledge receipt of the request from the CO within five working days. Within 45 additional working days, BIA will advise the CO, in writing, of its determination.)~~
- (d) Notify the prime contractor upon receipt of a challenge.

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(3) *Bureau of Indian Affairs (BIA)*.

(a) The BIA will determine the eligibility of the firm and notify the CO within 50 working days after receipt of the request.

(b) If the BIA determination is not received within the prescribed time period, the CO and the contractor may rely on the self-declaration of the subcontractor.

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## **Section 2 : Definitions**

**Old Content:** Procurement Guidance:

*T3.6.5 Indian Incentive Program*

*Indian Incentive Program*

**Section 2 : Definitions** Definitions are found in AMS clause 3.6.2-26, Utilization of Indian Organizations and Indian-Owned Economic Enterprises. **New Content:** Procurement Guidance:

*T3.6.5 Indian Incentive Program*

*Indian Incentive Program*

**Section 2 : Definitions** a. Definitions are in AMS clause 3.6.5-1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises. **Red Line Content:** Procurement Guidance:

*T3.6.5 Indian Incentive Program*

*Indian Incentive Program*

**Section 2 : Definitions** a. Definitions are ~~found~~ in AMS clause 3.6.~~25-26~~**L**, Utilization of Indian Organizations and Indian-Owned Economic Enterprises.

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